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No. 89-1269

Supreme Court, U.S.
FILED
FEB 16 1990
JOSEPH F. SPANIOL, JR.
CLERK

IN THE SUPREME COURT

OF THE

UNITED STATES

OCTOBER TERM, 1989

METRO-GOLDWYN-MAYER INC., a Delaware Corporation, MGM GRAND HOTEL, INC., a Nevada Corporation, and DONN ARDEN,

Petitioners,

vs.

FRANK MUSIC CORP., ROBERT WRIGHT, GEORGE FORREST, ANNE LEDERER (as Executrix of the Will of Charles Lederer), LUTHER DAVIS, and EDWIN LESTER,

Respondents.

SUPPLEMENTAL BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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Attorney for Respondent

Respondents respectfully submit this supplemental brief in opposition to the petition for certiorari herein pursuant to Rule 22.6 of the Rules of this court appertaining on the date as of which this matter was docketed in this Court, and Rule 15.1 of the new Rules of this Court adopted December 5, 1989 and effective January 1, 1990.

EITHER THERE HAS BEEN A CALCULATED MISSTATEMENT AND EVASION OF THE RULES OR METRO-GOLDWYN-MAYER INC. (MGM, INC.) IS NOT A PETITIONER HEREIN

The petition as lodged with the Court on December 21, 1989 was not filed because it did not comply with Rule 28.1 of the Rules then appertaining, requiring a listing of the parents, non-wholly owned subsidiaries, and affiliates of corporate petitioners, and was returned to

petitioners for compliance with that Rule. The corrected petition was received by the Court on February 5, 1990 and docketed as of December 21, 1989, the last day to file a petition having been December 27, 1989.

On January 29, 1990, petitioners served respondents with one copy of the corrected petition, by mail, and respondents received it on January 31, 1990.

The petition was corrected by way of a sticker affixed on page i thereof, offered as the "Rule 28.1 (December 1989) notice", which sticker lists the various subsidiaries, affiliates and immediate and ultimate parents of petitioner MGM Grand Hotel, Inc. (now known as Bally Grand, Inc.) but does not list the parents, subsidiaries or affiliates of Metro-Goldwyn-Mayer Inc. now known as MGM, Inc. Nor is there any notation that there is no

such parent or subsidiary or affiliate company to be listed.

Instead of listing the parents, subsidiaries and affiliates of Metro-Goldwyn-Mayer Inc. (MGM, Inc.), the petition, as corrected, asserts that MGM, Inc. (formerly known as Metro-Goldwyn-Mayer Inc.,) "has no interest in this proceeding". (Pet. Pg.i, sticker affixed)

CONCLUSION

Accordingly, on the assumption that no misstatement or evasion was intended, MGM Grand Hotel, Inc. (now known as Bally Grand, Inc.) and Donn Arden are the only petitioners herein.

DATED: February 8, 1990

Respectfully submitted,

DAVID H. KORNBLUM

Attorney for Respondents

PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)

I am a citizen of the United States and a resident of or employed in the City of Los Angeles, State of Caliofnria; I am over the age of 18 years and not a party to the within action; my business address is 1340 Sierra Alta Way, Los Angeles, California 90069.

On February 9, 1990, I served the within Supplemental Brief in Opposition to Petition for Writ of Certiorari in re: Frank Music Corp., et al, vs. Metro-Goldwyn-Mayer Inc., et al, in the United States Supreme Court, October Term 1989, No. 89-1269, on all parties interested in said action, by placing three true copies thereof enclosed in a sealed envelope, with postage thereon fully prepaid, in the United States Post Office mail box at Los Angeles, California, addressed as follows:

Charles M. Stern, P.C. and W. Paul Baskett
Wyman Bautzer Kuchel & Silbert
Two Century Plaza, Fourteenth Floor
2049 Century Park East
Los Angeles, California 90067

All parties required to be served have been served.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 9, 1990 at Los Angeles, California.

_____
David H. Kornblum